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OFFICE OF PETITIONS

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37 C.F.R. § 1.8

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November 13, 2000

Date

Shelley P.M. Fussey

EXPEDITED AFTER-FINAL PROCEDURE
EXAMINING GROUP 1652

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:

David Price

Serial No.: 08/951,188

Filed: October 15, 1997

For: P-TEFb COMPOSITIONS,
METHODS AND
SCREENING ASSAYS



Group Art Unit: 1652

NOV 24 2000

Examiner: Tung, P.

TECH CENTER 1652/2000

Atty. Dkt. No.: 4200.000200

Former Dkt.: IOWA:012

**PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW FINALITY
OF THIRD AND FOURTH OFFICE ACTIONS UNDER MPEP 706.07(d)**

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The present document is being filed under 37 C.F.R. § 1.181 and MPEP 706.07(d) & 1002.02(c) to respectfully petition the Group Director to withdraw the holding of finality set forth in the above-referenced application.

The Third Official Action mailed January 04, 2000 ("the Third Action") entered two new grounds of rejection, based upon two newly-cited prior art documents, which were not necessitated by Applicant's amendment or untimely submission of an Information Disclosure Statement. Applicant submitted a written request that finality be withdrawn as the new grounds of rejection were improper.

After a number of months procedural delay on the part of the Office, and without any opportunity for Applicant to file a response to the Third Action, a Fourth Official Action was mailed on October 11, 2000 ("the Fourth Action"). The Fourth Action states:

"Applicant's request for reconsideration of the finality of the rejection of the last Office Action is persuasive and, therefore, the finality of that action is withdrawn. Accordingly, this Office action is now made final".

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Fourth Action at page 2, item 2.

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Applicant respectfully points out that the objective of *withdrawing finality* is so that the next Action is *Non-Final*, giving the Applicant a chance to respond without the constraints of after-final practice. After receipt of the Fourth Action, Applicant's representatives telephoned both Examiner Tung and Supervisory Patent Examiner Achutamurthy and were advised that finality of the Fourth Action was proper in their opinion. As Applicant has had absolutely no chance to submit any response between finality being withdrawn and re-imposed, Applicant maintains that finality is improper and respectfully petitions the Group Director to restore this application to non-final status.

As the Fourth Action is defective in its maintenance of finality, Applicant also respectfully requests the Group Director to restart the period for response to run from the mailing date of the next, Non-Final Official Action. The present petition and request are being filed within one month of the mailing date of the defective Fourth Official Action, as required by MPEP 710.06, so restarting the period for response is proper (note that the one month date falls on a Saturday, the present paper being timely submitted the next Monday).

A check in the amount of \$130.00 to cover the required petition fee is enclosed herewith. Should the check be deficient or omitted, the Assistant Commissioner is authorized to deduct the necessary amount from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-

0786/4200.000200. Despite provision of the enclosed fee, Applicant respectfully requests that this fee be refunded in full to the referenced deposit account on the grounds that the procedural errors in this case are the fault of the Office and the present petition should not have been necessary.

Should the Group Director have any questions regarding this matter, a telephone call to Applicant's undersigned representative is earnestly solicited.

Respectfully submitted,



Shelley P.M. Fussey, Ph.D.
Reg. No. 39,458
Agent for Applicant

WILLIAMS, MORGAN & AMERSON
7676 Hillmont, Suite 250
Houston, Texas 77040
(713) 934-4079

Date: November 13, 2000